

**Remarks:**

Reconsideration of the application is respectfully requested.

Claims 1 - 27 are presently pending in the application.

Applicant would like to thank the Examiner for his indication in paragraph 1.3 of the above-mentioned Office Action that claims 1 - 27 are allowed.

However, in paragraph 2.1 of the Office Action, it was alleged that claims 1 and 8 of U. S. Patent No. 6,314,031 ("'031") allegedly contain every element of claim 1 of the instant application, except for a testing mode, and as such, claim 1 is allegedly anticipated by those claims of the '031 patent. As such, in paragraph 2.2.1 of the Office Action, it was stated that the similarity between the present claim 1 and claims 1 and 8 of the '031 patent is provisional obviousness-type double patenting. Paragraph 2 of the Office Action indicates that this is curable with a timely filed terminal disclaimer.

First, it is important to note that the present application and the '031 patent were filed on the same day, and thus, will already terminate on the same day, effectively reducing the situations in which a terminal disclaimer would be of any use.

Second, and more substantively, Applicant respectfully traverses the statement that claim 1 of the present case would be obvious over claims 1 and 8 of the '031 patent. As will be shown herein, Applicant believes that claim 1 of the present case, as well as the remaining claims, are patentably distinct over (neither anticipated by, nor obvious in view of) claims 1 and 8 of the '031 patent.

More specifically, the following table highlights the major differences between claim 1 of the present application and claims 1 and 8 of the '031 patent. It can be seen that not all differences have been referenced.

<u>Instant Application Claim 1</u>	<u>'031 patent Claim 1</u>	<u>'031 patent Claim 8</u>
1 A memory device, comprising:	1. A memory device, comprising:	8. A memory device, comprising:
a multiplicity of memory cells for storing data;	a multiplicity of memory cells for storing data;	a multiplicity of memory cells for storing data;
<b>comparison units</b> connected to said memory cells and each having an address input for receiving at least a portion of an address applied to the memory device, said comparison units being configured to	<b>at least one comparison unit</b> having an address input and being configured to check whether an address received at said address input has a memory cell associated therewith which cannot be written	<b>at least one comparison unit</b> having an address input and being configured to check whether an address received at said address input has a memory cell associated therewith which cannot be written

<u>Instant Application Claim 1</u>	<u>'031 patent Claim 1</u>	<u>'031 patent Claim 8</u>
<p>simultaneously check whether the address applied to the memory device is associated with at least one memory cell which cannot be properly written to or read out or to simultaneously check whether the address applied to the memory device is located in a memory cell area containing memory cells which cannot be properly written to or read out; and</p>	<p>to or read from properly or is in a memory cell area containing memory cells which cannot be written to or read from properly; and</p>	<p>to or read from properly or is in a memory cell area containing memory cells which cannot be written to or read from properly; and</p>
<p>in a testing phase of the memory device, said comparison units being placed into a testing state different from a state during a normal operation of the memory device.</p>		
	<p>a selection device connected to said comparison unit, said selection device being configured to ensure that backup memory cells or backup memory cell areas are used instead of memory cells or memory cell areas which cannot be written to or read from properly;</p>	<p>a selection device connected to said comparison unit, said selection device being configured to ensure that backup memory cells or backup memory cell areas are used instead of memory cells or memory cell areas which cannot be written to or read from properly;</p>

Instant Application <u>Claim 1.</u>	'031 patent <u>Claim 1</u>	'031 patent <u>Claim 8</u>
	wherein information about a location of the memory cells or memory cell areas which are not to be used is supplied to said selection device at an instant at which a determination has not yet been made that the address received at said address input has a memory cell associated therewith which cannot be written to or read from properly or is in a memory cell area containing memory cells which cannot be written to or read from properly	wherein information about a location of the memory cells or memory cell areas which are not to be used is actually supplied to said selection device before an instant at which said selection device is prompted to ensure that backup memory cells or backup memory cell areas are used instead of memory cells or memory cell areas which cannot be written to or read from properly.

Independent claim 16 of the present application is a method claim corresponding to the method of use of a memory device, such as set forth in claim 1 of the instant application, and thus contains similar limitations to the instant claim 1.

As can be seen from the above chart, there is no danger of the same claims being issued in two patents. Claims 1 and 16 of the instant case, and resultantly, the claims depending therefrom, include the particularly claimed **testing phase** of the comparison units. This **testing phase** is neither taught,

nor suggested, in the claims of the '031 patent. Further, claims 1 and 8 of the '031 patent include the additional limitations relating to the particularly claimed selection device not present in the claims of the instant case. As such, the claims of the instant application are believed to be patentably different from those of the issued '031 patent.

Nor is Applicant's particularly claimed testing phase believed to be obvious in view of the claims of the '031 patent. The claims of the instant application recite, among other limitations, that in the particularly claimed testing phase, the comparison units are placed into a state which differs from a state of the comparison units during normal operation of the memory device. Pursuant to MPEP section 804, it is the claims of the '031 patent that must be considered to determine if the instant claims are obvious in view thereof.

Claims 1 and 8 of the '031 patent, cited in the Office Action, make no reference to, nor do they suggest, how the memory is tested to determine that an address received at the address input has a memory cell or memory cell area associated therewith to which cannot be written. Dependent claim 3 of the '031 patent, recites:

"The memory device according to claim 1, wherein said at least one comparison unit is configured to carry out a plurality of comparison operations, and wherein a

circumstance of whether an address applied to the memory device has an associated memory cell which cannot be written to or read from properly or is in a memory cell area containing memory cells which cannot be written to or read from properly is determined only when all comparison results are present."

However, even this added limitation is not the same as Applicant's particularly recited **testing** of the instant claims 1 and 16, which recite that, among other limitations, the comparison units are placed into a testing state different from a state during a normal operation of the memory device.

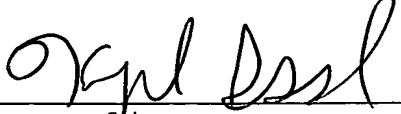
As such, it is believed that the claims of the instant application are neither anticipated by, nor obvious over the claims of the '031 patent.

In view of the foregoing, reconsideration and allowance of claims 1 - 27 are solicited.

If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,

  
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For Applicant

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